

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

IN RE:)	CHAPTER 7
)	
BIANCA M. GANVIK,)	CASE NO. 17-29135
)	
DEBTOR.)	HON. LASHONDA A. HUNT

NOTICE OF MOTION

PLEASE TAKE NOTICE THAT on **Wednesday, February 14, 2018, at 10:30 a.m.**, I shall appear before the Honorable LaShonda A. Hunt, Bankruptcy Judge in Courtroom 719, at the Everett McKinley Dirksen Federal Building, 219 S. Dearborn Street, Chicago, Illinois, or any other Bankruptcy Judge who may be sitting in her place, and shall present the **United States Trustee's Motion To Examine Fees Paid To Attorney Pursuant To 11 U.S.C. § 329(b) And For Other Relief**, a copy of which is attached and is served on you.

/s/ Candice Manyak

Candice M. Manyak, Attorney
Office of the U.S. Trustee
219 S. Dearborn St., Room 873
Chicago, Illinois 60604
(312) 886-3322

CERTIFICATE OF SERVICE

I, Candice Manyak, an attorney, state that on February 1, 2018, pursuant to Local Rule 9013-1(D) the **Notice of Motion** and **United States Trustee's Motion To Examine Fees Paid To Attorney Pursuant To 11 U.S.C. § 329(b) And For Other Relief** were filed and served on all parties, either via the Court's Electronic Notice for Registrants or via First Class Mail, as indicated on the service list below.

/s/ Candice Manyak

SERVICE LIST

Registrants Served Through the Court's Electronic Notice:

Jeff A. Whitehead jeffwhitehead_2000@yahoo.com
Karen R. Goodman kgoodman@taftlaw.com

Parties Served via First Class Mail:

Bianca M. Ganvik
1342 North Knollwood Drive
Palatine, IL 60067

Dana O'Brien
Toni Townsend
McCalla Raymer Leibert Pierce, LLC
1 North Dearborn, Suite 1200
Chicago, IL 60602

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**UNITED STATES TRUSTEE'S MOTION TO EXAMINE FEES PAID
TO ATTORNEY PURSUANT TO 11 U.S.C. § 329(b) AND FOR OTHER RELIEF**

Patrick S. Layng, the United States Trustee for the Northern District of Illinois (the “U.S. Trustee”), by and through his attorney, Candice Manyak, asks this Court, pursuant to 11 U.S.C. § 329 and Fed. R. Bankr. P. 2017, to examine the fees paid to attorney Jeff A. Whitehead (“Whitehead”) in connection with this case and for other relief (the “Motion”). In support of the Motion, the U.S. Trustee states as follows:

I. JURISDICTION

1. This is a core proceeding concerning the administration of this estate pursuant to 28 U.S.C. § 157(b)(2)(A) which this Court may hear and determine pursuant to Internal Operating Procedure 15(a) and Local Rule 40.3.1(a) of the United States District Court for the Northern District of Illinois.

II. BACKGROUND

2. On September 29, 2017 (the “Petition Date”), Bianca M. Ganvik (the “Debtor”), represented by Whitehead, filed a voluntary petition for relief under Chapter 13 of the Bankruptcy Code (the “Petition”).

3. At no time during the case has the Debtor filed Schedules or a Statement of Financial Affairs (collectively, the “Required Documents”). The Required Documents were required to be filed within 14 days after the Petition Date under Fed. R. Bankr. P. 1007(c).

4. On October 18, 2017, Marilyn O. Marshall (the “Chapter 13 Trustee”) moved to dismiss this case for failure to file the Required Documents. *See* Doc. No. 10. The Chapter 13 Trustee’s motion to dismiss was set for hearing on October 30, 2017. *See id.*

5. On October 27, 2017, the Debtor, through Whitehead, filed a notice of voluntary conversion to Chapter 7. *See* Doc. No. 11.

6. On January 16, 2018, the U.S. Trustee moved to dismiss this case for failure to file the Required Documents. *See* Doc. No. 25.

7. On January 31, 2018, the Court held a hearing on the U.S. Trustee’s motion to dismiss. Neither the Debtor nor Whitehead appeared. The Court continued the hearing to February 14, 2018.

8. The Attorney Statement of Compensation Pursuant to Rule 2016 filed contemporaneously with the Petition reflects that Whitehead agreed to accept \$4,000.00 from the Debtor for services rendered in this case (the “2016 Disclosure”). A copy of the 2016 Disclosure filed in the 2016 Case is attached as *Exhibit A*.

9. Whitehead failed to file a Court-Approved Retention Agreement (“CARA”) or any other written fee agreement with the Debtor, which was required to be filed with the 2016 Disclosure pursuant to Local Rule 2016-1 and 11 U.S.C. §528(a).

III. RELIEF REQUESTED

10. Section 329(b) of the Bankruptcy Code authorizes this Court to examine the fees paid to an attorney in connection with a bankruptcy case and provides that, to the extent the amounts paid exceed the reasonable value of the services rendered, this Court can cancel any agreement between the debtor and counsel and order the return of any excessive payment.

11. Under the circumstances of this case, the U.S. Trustee believes it is appropriate for the Court to examine the reasonableness of the fees the Debtor paid to Whitehead, as the Debtor's case is subject to dismissal. The U.S. Trustee also believes that Whitehead should be required to promptly file with the Court his written fee agreement with the Debtor.

WHEREFORE, the U.S. Trustee respectfully asks the Court to enter an order scheduling a hearing to examine the fees paid to Jeff A. Whitehead in this case under Fed. R. Bankr. P. 2017 and 11 U.S.C. § 329, directing Jeff A. Whitehead to appear at that hearing, ordering Jeff A. Whitehead to file a written response to the Motion not later than 3 days before the hearing, ordering Jeff A. Whitehead to file with this Court his written fee agreement with the Debtor within 7 days, and granting any other relief the Court deems just.

RESPECTFULLY SUBMITTED:

PATRICK S. LAYNG
UNITED STATES TRUSTEE

DATED: February 1, 2018

/s/ Candice Manyak
Candice M. Manyak, Attorney
Office of the U.S. Trustee
219 S. Dearborn St., Room 873
Chicago, Illinois 60604
(312) 886-3322